



impotent as the report only says that the plaintiff was only complaining of impotence. I viewed the plaintiff in court and saw for my self the injuries complained about for the penis there is only a stump left it is possible that the plaintiff is impotent but the court would have been greatly assisted if the doctor made his own finding, confirming or denying what the plaintiff said especially considering the tender age. the plaintiff a young boy has been crippled by the injuries and the assessment of disability at 60%is not exaggerated in the circumstances.

Mr. Mugabi, in his submission said that the plaintiff received grave injuries as a *result* of the burns that he has got scars and stiffness in the legs which make him walk like a robot. That there is possibility of further treatment as the knees have not yet healed. The plaintiff was hospitalized for 7 months and he suffered incalculable pain. He further submitted that the plaintiff will never marry or have sexual relations, nor have any children as a result of the accident. He prayed for substantial award of damages in order to compensate the plaintiff. Counsel referred me to the case Godfrey Kateregga vs. Uganda Electricity board HCCS 93(B) of 1989 unreported where court awarded Shs. 15m, in a case where the disability was assessed at 30%. He also referred me to the following cases Serverino Bamwei v. attorney General of Uganda HCCS No. 17/68 reported in Wilkinson's Book on Quantum of Damages 3rd Ed Page where the plaintiff aged 29 years sustained irreparable injury to the back and could no longer has sexual intercourse and has to take up sedentary occupation was awarded Shs. 95,000/= damages. Mutabazi vs. attorney General HCCS No. 348/(68 Wilkinsons Book on Quantum of Damages 3rd P.74 . The plaintiff in this case sustained injury of sacro iliac joints between the trunk and penis, pain likely to increase and lack of mobility, only high work possible. Prevented from normal marital relations, ay improve and be able to have intercourse 100,000/= awarded as general damages. Counsel argued that at the time the awards awarded

The dollar was Ug. shs 7/= that if you multiply to the correct rate of shs. 1200/= to a dollar the award would be 18m.he submitted that in those cases the plaintiffs were adults where as in this case the plaintiff is a young boy. Ntimba v UEB SC Appeal 16/92 where the disability was assessed at 80% the award was 29m/=. HCCS No88/1990 Erisa Musanari a sum of 20m was awarded to a boy of 12years.

Counsel submitted that since this was once and for all award he prayed that that a sum of 25m be awarded to the plaintiff together with the interest from the date of filling the case and costs of the suit. Mr. Kateera in his submission admitted that the injuries were severe but they did not call for the heavy damages the plaintiff counsel was praying for.

Referring to the case of Katerregga cited above counsel submitted that injuries in that case were more serious as the plaintiff had sustained head injury ruptured urethra and persistent head aches .counsel also referred to the case of Ntimba v UEB which he said was distinguishable because of the accident the plaintiff was confined to a wheel chair that his injuries were such that he could not feed or cloth himself or take himself to the toilet he needed someone to look after him for the rest of his life. Counsel submitted that the plaintiffs counsels submission that the plaintiff may have problems in future and that his pain is incalculable were baseless as they were not supported by the medical report. The allegation that the plaintiff was impotent was also not supported by the medical report.

Counsel submitted that the prayer for exorbitant damages had no basis and he proposed an award of Shs 12m. With interest from the date of judgment. The award of general damages-is in the discretion of court after considering the facts of each case, I have considered the submissions by both counsel and the medical. Report and as I have already stated, I saw the injuries the plaintiff sustained when he appeared in court. I prefer to follow recent court decisions rather than trying to use the old ones by using the dollar formula. In my opinion the dollar can be used as a guide to show the rate of inflation but not to just convert the dollar to a shilling without other considerations. The young boy of almost 12 years sustained severe injuries which have left him with terrible scars he was unconscious r one day. Although impotence was not conclusively proved, it is more likely that h is impotent as his penis was almost burnt off, his knees are stiff, he cannot walk properly and they were not yet hea3ed, he was hospitalized for more than 7 months and suffered a lot pain, his permanent disability has been assessed at 60% which I think is high and. serious. Taking all the above into consideration I award the plaintiff general damages for pain, suffering and loss of amenities in the sum of Shs. 16,000,000/= (sixteen million shillings) with interest at court rate from the date of judgment until payment in full, the plaintiff is also awarded costs of this suit.

M. KIREJU

JUDGE

4/6/93